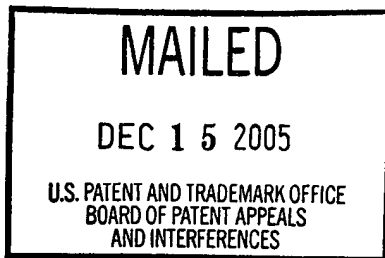


The opinion in support of the decision being entered today was not written
for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte STEVEN B. DUNN
and
JOSIAH TO SANG LI



Appeal No. 2005-1924
Application No. 10/053,754

ON BRIEF

Before NASE, CRAWFORD, and BAHR, Administrative Patent Judges.
NASE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 to 27,
30, 33 to 41 and 43 to 45, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

The appellants' invention relates generally to the field of automotive accessories, and more specifically to vehicle sunshades that are attachable to a window of a vehicle for protecting occupants and cargo that are in the vehicle from direct exposure to sunlight. (specification, p. 1). A copy of the claims under appeal is set forth in the appendix to the appellants' brief.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Park	4,823,859	Apr. 25, 1989
Lii	5,226,467	July 13, 1993
McGuire	5,330,251	July 19, 1994

Claims 1, 2, 9 to 18, 27, 41, 43 and 44 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lii.

Claims 3 to 8 and 23 to 26 stand rejected under 35 U.S.C. § 103 as being unpatentable over Lii in view of McGuire.

Claims 19 to 22, 30, 33 to 40 and 45 stand rejected under 35 U.S.C. § 103 as being unpatentable over Lii in view of Park.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the final rejection (mailed November 3, 2003) and the answer (mailed October 27, 2004) for the examiner's complete reasoning in support of the rejections, and to the brief (filed June 14, 2004) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

The anticipation rejection

We will not sustain the rejection of claims 1, 2, 9 to 18, 27, 41, 43 and 44 under 35 U.S.C. § 102(b) as being anticipated by Lii.

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). In other words, there must be no difference between

the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. Scripps Clinic & Research Found. v. Genentech Inc., 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

Independent claims 1, 27 and 41 (the independent claims subject to this ground rejection) read as follows:

1. A sunshade for a vehicle, comprising:
 - a housing;
 - first mounting means for mounting said housing on a vehicle window;
 - a drum member, rotatably mounted with respect to said housing;
 - a flexible, weblike shade element, said shade element being positioned so as to be wrapable about said drum member; and
 - a retraction mechanism for enabling said shade element to be moved from a first, fully retracted position wherein most of said shade element is wrapped about said drum member and a second, extended position wherein said shade element is at least partially unwrapped from said drum member, said retraction mechanism comprising:
 - a biasing mechanism for biasing said drum member so that said shade element is urged toward said first, retracted position, and
 - an arresting mechanism, said arresting mechanism being constructed and arranged so as to permit said drum member to be stopped when said shade element is in said second, extended position and in any of a plurality of predetermined intermediate positions that are between said first, fully retracted position and said second, extended position, said arresting mechanism further comprising controlled retraction structure for permitting a consumer to partially retract said shade element by a controlled predetermined distance;
 - whereby said weblike shade element may be utilized in more than one position wherein it is not being actively biased toward the retracted position.
27. A sunshade for a vehicle, comprising:
 - a housing;
 - first mounting means for mounting said housing on a vehicle window;

a drum member, rotatably mounted with respect to said housing;
a flexible, weblike shade element, said shade element being positioned so as to be wrapable about said drum member;
a retraction mechanism for enabling said shade element to be moved to any one of a number of different positions including a first, retracted position wherein most of said shade element is wrapped about said drum member and a second, extended position wherein said shade element is at least partially unwrapped from said drum member; and wherein
said housing is shaped and sized so as to preclude a person from being able to touch a portion of said shade element that is wrapped about said drum member, whereby the possibility of the person's fingers being pinched is reduced.

41. A sunshade for a vehicle, comprising:
a housing;
first mounting means for mounting said housing on a vehicle window;
a drum member, rotatably mounted with respect to said housing;
a flexible, weblike shade element, said shade element being positioned so as to be wrapable about said drum member; and
a retraction mechanism for enabling a consumer by depressing a mechanical control element using just one hand to move the shade element to any one of a plurality of different predetermined indexed positions including a first, retracted position wherein most of said shade element is wrapped about said drum member, a second, extended position wherein said shade element is at least partially unwrapped from said drum member and at least one predetermined indexed intermediate position.

Lii's invention relates to a wind-shield blind system. The wind-shield blind system, as shown in Figures 1 and 2, comprises a tube 1, two plugs 2, 3, an elongated rod 4, a long coil spring 5, two end caps 60, 61, a push block 7 and a curved cap 8 as its main components. The tube 1 functions as a spindle for carrying an opaque plastic film 12 and being formed with slits 10, 11 in its opposite ends, and the plastic film 12 is

fixed between both slits 10, 11. The two plugs 2, 3 are plugged in the opposite ends of the tube 1 and prevented from rotating relative to the tube 1 by ribs 210, 330 respectively engaged in the slits 10, 11. The end caps 60, 61 are respectively fixed to close the left and the right end of the tube 1. The first end cap 60 is formed with a round spigot 600 extending upright on an inner bottom, an aperture 601 in the spigot 600, a curved recess 602 along an inner circumferential wall and a fitting block 603 on its surface. The second end cap 61 is formed with a round tube 610 extending upright on an inner bottom, a toothed rim 611 around the tube 610 to engage a toothed rim 31 in the second plug 3, a central longitudinal bore 612 in the tube 610, a curved recess 613 and a fitting block 614 on the left inner wall, a cavity 615 and an oval opening 616 in the right end.

Lii's push block 7 is fitted in the oval opening 616 and in the cavity 615 of the second end cap 61, having an upper recess 71, a lower recess 70 and a central groove 72 in a left vertical side, two projecting curved walls 73, 74 on a front and a rear portion of the left side. The curved cap 8 is mounted lengthwise on the tube 1, having two opposite ends respectively inserted into corresponding recesses 602, 613 defined in the first and second end caps 60, 61, and formed with two holes 80, 81 engaging the fitting blocks 603, 614 in the two end caps 60, 61 and respectively inserted into corresponding

recesses 602, 613 defined in the first and second end caps 60, 61, and two bracket assemblies 82, 83 properly spaced apart on both end portions.

In operation, the toothed rim 31 in the second plug 3 and the toothed rim 611 in the second end cap 61 function as a ratchet device, allowing the plastic film 12 to extend only and preventing it from being rewound to lock the plastic film 12 stationary with respect to the tube 1 at any of a plurality of positions along its extension, as shown in Figure 2. In using Lii's blind system, the plastic film 12 is to be pulled down, forcing the tube 1 to rotate clockwise, and then the second plug 3 is also rotated by means of a rib 330 engaging the slit 11. The toothed rim 31 in the second plug 3 slides over the toothed rim 611 in the second end cap 61 and the coil spring 5 becomes compressed. When the plastic film 12 is pulled out to a needed length, it is to be released manually, then the coil spring 5 compressed will elastically push the tube 1 to rotate counterclockwise, but the tube 1 cannot do so, stopped by the ratchet teeth in the toothed rim 611 on the second end cap 61 engaging and stopping the ratchet teeth in the toothed rim 31 in the second plug 3, keeping the film 12 at the pulled-out length. In rewinding the plastic film 12 back to the spindle tube 1, the push block 7 is to be lifted up or lowered down manually, as shown in Figures 3 and 4. Then a short rod 32 in the second plug 3 has its end tip pushed inward by the upper recess 71 or the lower recess 70 in the push block 7, as the groove 72 is deeper than the upper or the lower recess

71, 70. Consequently, the second plug 3 is to be pushed inward together with the rod 32, forcing the toothed rim 31 separate from the toothed rim 611 in the second end cap 61, and letting the spindle tube 1 rotate counterclockwise together with the second plug 3 to rewind the film 12 back on the tube 1. After that, the push block 7 is to be pushed to the intermediate position to let the second plug 3 to move back, with the rod 32 engaging the central groove 72, enabling the spindle tube 1 ready for winding the film 12 out.

The appellants argue (brief, pp. 7-8) that Lii does not anticipate claim 1 since Lii does not disclose any structure corresponding to the claimed arresting mechanism. We agree. While Lii does disclose structure constructed and arranged so as to permit said drum member (i.e., tube 1) to be stopped when the shade element (i.e., film 12) is in a fully extended position and in any of a plurality of predetermined intermediate positions that are between the fully retracted position and the fully extended position, Lii does not disclose any controlled retraction structure permitting a consumer to partially retract the shade element (i.e., film 12) by a **controlled predetermined distance**. The partial retraction movement alluded to by the examiner in the answer (p. 4) caused by moving Lii's block 7 in one direction and then quickly reversing it back to the neutral position does not result in partially retracting the film 12 by a **controlled predetermined distance** since the distance moved would be random.

The appellants argue (brief, p. 12) that Lii does not anticipate claim 27 since Lii does not disclose any structure corresponding to the claimed housing being shaped and sized so as to preclude a person from being able to touch a portion of the shade element that is wrapped about the drum member, whereby the possibility of the person's fingers being pinched is reduced. We agree. In that regard, Lii's curved cap 8 only extends about a portion of roller 1 as depicted in Figure 1. Lii's curved cap 8 would permit a person to touch a portion of the film 12 that is wrapped about the roller 1 thereby permitting the possibility of a person's fingers being pinched. As such, Lii's curved cap 8 is not shaped and sized so as to preclude a person from being able to touch a portion of the film 12 that is wrapped about the roller 1, whereby the possibility of the person's fingers being pinched is reduced.

The appellants argue (brief, pp. 12-13) that Lii does not anticipate claim 41 since Lii does not disclose any structure corresponding to the claimed retraction mechanism for enabling a consumer by depressing a mechanical control element using just one hand to move the shade element to any one of a plurality of different predetermined indexed positions. We agree. In that regard, we note that Lii's retraction mechanism is actuated by sliding the push block 7 up or down from the neutral position, not by depressing the push block 7 to move the film element 12 to any one of a plurality of different **predetermined** indexed positions.

For the reasons set forth above, independent claims 1, 27 and 41 are not anticipated by Lii. Accordingly, the decision of the examiner to reject claims 1, 27 and 41, and claims 2, 9 to 18, 43 and 44 dependent thereon, under 35 U.S.C. § 102(b) is reversed.

The obviousness rejection based on Lii and McGuire

We will not sustain the rejection of claims 3 to 8 and 23 to 26 under 35 U.S.C. § 103 as being unpatentable over Lii in view of McGuire.

With respect to dependent claims 3 to 8, we have reviewed the teachings of McGuire but find nothing therein which makes up for the deficiency of Lii discussed above with respect to parent claim 1. Accordingly, the decision of the examiner to reject claims 3 to 8 under 35 U.S.C. § 103 is reversed.

Claim 23 reads as follows:

A sunshade assembly for a vehicle, comprising:
a housing;
first mounting means for mounting said housing on a vehicle window;
a drum member, rotatably mounted with respect to said housing;
a flexible, weblike shade element, said shade element being positioned so as to be wrapable about said drum member; and
a retraction mechanism for enabling said shade element to be moved from a first, fully retracted position wherein most of said shade element is

wrapped about said drum member and a second, extended position wherein said shade element is at least partially unwrapped from said drum member; and
at least one marker element, said marker element and said shade element being constructed so that said marker element may be affixed to said shade element by a consumer.

McGuire's invention relates to seat cover apparatus, and more particularly pertains to a new and improved retractable seat cover apparatus arranged for the selective extension over a seat outer surface. As shown in Figures 1-5, the seat cover apparatus 10 comprises a cylindrical housing 11 rotatably mounted about a connecting axle 17, that includes first and second support rods 12 and 13 orthogonally and fixedly mounted to the axle at opposed ends of the axle, with the housing 11 oriented between the first and second support rods 12 and 13. Respective first and second suction cup members 14 and 15 are mounted to the first and second support rods for securement to a vehicular rear window "W." A retraction spring 16 has the spring first end secured to the housing 11, with the second end secured to the connecting axle 17 to bias the housing and associated flexible web 18 mounted to the housing 11 in a furled orientation about the housing 11. A rib member 19 is mounted to a distal end of the flexible web spaced from the housing, with the rib member 19 including a handle 20 mounted thereon. Parallel slots 21 are directed through the flexible web 18 orthogonally oriented relative to the rib member 19 and substantially parallel to the web sides 22. The web slots 21 are each arranged to receive a seat belt member therethrough, such as

indicated in Figure 6. A hook member 23 is provided for fixed securement to the vehicular seat front panel 24 to enhance the extension of the web relative to the housing 11.

As shown in Figure 6 of McGuire, a first hook and loop fastener patch 26 is mounted to the web 18 between the slots 21 and the rib 19. A game board web 27 having a second hook and loop fastener patch 28 can be secured to the first hook and loop fastener patch 26 to permit individuals in the rear seat structure to enjoy various games such as checkers and the like.

In the rejection of claim 23, the examiner (final rejection, p. 2) concluded that it would have been obvious to one of ordinary skill in the art to incorporate McGuire's teaching of a game board web into the sunshade of Lii for the purpose of entertainment or aesthetics.

The appellants argue (brief, pp. 14-15) that it would not have been obvious to one of ordinary skill in the art to have combined the teachings of Lii and McGuire so as to arrive at the subject matter of claim 23. We agree.

In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A prima facie case of obviousness is established by presenting evidence that the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the references before him to make the proposed combination or other modification. See In re Lintner, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972). Furthermore, the conclusion that the claimed subject matter is prima facie obvious must be supported by evidence, as shown by some objective teaching in the prior art or by knowledge generally available to one of ordinary skill in the art that would have led that individual to combine the relevant teachings of the references to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Rejections based on 35 U.S.C. § 103 must rest on a factual basis with these facts being interpreted without hindsight reconstruction of the invention from the prior art. The examiner may not, because of doubt that the invention is patentable, resort to speculation, unfounded assumption or hindsight reconstruction to supply deficiencies in the factual basis for the rejection. See In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967), cert. denied, 389 U.S. 1057 (1968). Our reviewing court has repeatedly cautioned against employing hindsight by using the appellants' disclosure as a blueprint to reconstruct the claimed invention from the isolated teachings of the prior art. See, e.g., Grain Processing Corp.

v. American Maize-Products Co., 840 F.2d 902, 907, 5 USPQ2d 1788, 1792 (Fed. Cir. 1988).

In this case, we see no teaching, suggestion, motivation or incentive in the teachings of McGuire that would have made it obvious at the time the invention was made to a person having ordinary skill in the art to have modified Lii's film 12 so as to be able to secure thereto a game board web in the manner that McGuire's game board 27 can be secured to web 18. This is due to the disparate nature of the applied prior art. In that regard, Lii's blind system is used to thermally insulate either the front or rear windshield of a car. As such, it is usually not extended when the vehicle is being driven. McGuire's seat cover is used to cover the rear seat in a vehicle and would be extended when the vehicle is being driven. Since Lii's blind system is usually not extended when the vehicle is being driven there would be little, if any, value in having a game board web secured thereto. In our view, the only suggestion for modifying Lii in the manner proposed by the examiner to arrive at the subject matter of claim 23 stems from hindsight knowledge derived from the appellants' own disclosure.

For the reasons set forth above, the decision of the examiner to reject claim 23, and claims 24 to 26 dependent thereon, under 35 U.S.C. § 103 is reversed.

The obviousness rejection based on Lii and Park

We will not sustain the rejection of claims 19 to 22, 30, 33 to 40 and 45 under 35 U.S.C. § 103 as being unpatentable over Lii in view of Park.

With respect to dependent claims 19 to 22, we have reviewed the teachings of Park but find nothing therein which makes up for the deficiency of Lii discussed above with respect to parent claim 1. Accordingly, the decision of the examiner to reject claims 19 to 22 under 35 U.S.C. § 103 is reversed.

Claims 30, 38 and 45 read as follows:

30. A sunshade for a vehicle, comprising:
a housing;
first mounting means for mounting said housing on a vehicle window;
a drum member, rotatably mounted with respect to said housing;
a flexible, weblike shade element, said shade element being positioned so as to be wrapable about said drum member;
a retraction mechanism for enabling said shade element to be moved to any one of a number of different positions including a first, retracted position wherein most of said shade element is wrapped about said drum member and a second, extended position wherein said shade element is at least partially unwrapped from said drum member;
a gripping member, mounted to a distal end of said shade element, for facilitating gripping of said shade element by a consumer; and
second mounting means, attached to said gripping member, for mounting said gripping member to a vehicle window, said second mounting means comprising at least two suction cups, said suction cups being aligned with each other along a common axis, said gripping member being shaped so as to provide a lever arm of sufficient length in a direction that is perpendicular to said common axis to permit a consumer to conveniently disengage said suction cup

from a vehicle window, said length being within a range of about 0.4 in. to about 2.5 in.

38. A sunshade for a vehicle having at least one vehicle door and a vehicle window that can be raised and lowered out of and into the door, comprising:
a housing;
first mounting means for mounting said housing on a first portion of the vehicle window;
a drum member, rotatably mounted with respect to said housing;
a flexible, weblike shade element, said shade element being positioned so as to be wrapable about said drum member;
a retraction mechanism for enabling said shade element to be moved to any one of a number of different positions including a first, retracted position wherein most of said shade element is wrapped about said drum member and a second, extended position wherein said shade element is at least partially unwrapped from said drum member;
a gripping member, mounted to a distal end of said shade element, for facilitating gripping of said shade element by a consumer; and
second mounting means, attached to said gripping member, for mounting said gripping member to a second portion of the vehicle window, and wherein said gripping member and said second mounting means are constructed and arranged so as to facilitate disengagement of said second mounting means from the second portion of the vehicle window when the second portion of the vehicle window is attempted to be lowered into the vehicle door.

45. A sunshade for a vehicle, comprising:
a housing;
first mounting means for mounting said housing on a vehicle window;
a drum member, rotatably mounted with respect to said housing;
a flexible, weblike shade element, said shade element being positioned so as to be wrapable about said drum member;
a retraction mechanism for enabling said shade element to be moved to any one of a number of different positions including a first, retracted position wherein most of said shade element is wrapped about said drum member and a second, extended position wherein said shade element is at least partially unwrapped from said drum member;
a gripping member, mounted to a distal end of said shade element, for facilitating gripping of said shade element by a consumer; and

second mounting means, attached to said gripping member, for mounting said gripping member to a vehicle window, said second mounting means comprising at least one suction cup, said gripping member being shaped so as to provide a lever and of sufficient length from said suction cup to permit a consumer to conveniently disengage said suction cup from a vehicle window, said length being within a range of about 0.4 in. to about 2.5 in.

Park's invention relates to an easily mountable and retractable shield made of inexpensive construction which will protect the interior of a motor vehicle from the harmful rays of the sun. Figure 1 shows a top view of a car 16 with the protective windshield device 3 mounted on the interior side of the windshield 17 with the silver-coated electrostatic vinyl film 15 extended along the entire windshield. As shown in Figures 3 through 6, the protective windshield device 3 includes a conical shaped spring loaded roller 8 attached to one end 18 of the electrostatic vinyl film 15, in which the film 15 is trapezoidal in shape and mounted to the conical shape roller 8 by any number of suitable means. The entire roller assembly with the retracted film 15 wound onto the conical shaped spring loaded roller 8 is then encased into a resilient tubular cylinder 10 and stabilized by two support brackets 19 and 20 with two semi-circular end caps 21, 22 affixed to the open ends of the cylinder 10. The free end 23 of the electrostatic vinyl film 15 extends outward from the protruding, elongated slot 12. The free end 23 of the film 15 is then attached to a minor support assembly (anchor assembly) 5 consisting of a flat support member 13 housing six suction cups 4. This

anchor assembly 5 is used to secure the loose end 23 of the electrostatic vinyl film 15 on the passenger's side of the windshield 17. The six suction cups 4 are secured onto the flat member 13 through six 8-shaped slots 14. The tubular housing 10 with elongated rubber strip 6 affixed directly beneath the protruding slot 12 is pressed against the windshield 17 with the protective film 15 situated between the windshield 17 and rubber strip 6. Using the pivoting handle 7 located contraposition to the rubber strip 6, pressure is applied to the electrostatic vinyl 15 through the cylindrical housing 10. The tubular housing 10 is pulled across the windshield 17, while following the curvature of the windshield 17 and maintaining constant pressure on the windshield 17, leaving the protective film 15 secured, extended and attached to the windshield 17. The housing 10 is then mounted flush onto the drivers side of the windshield 17 by two suction cups 2 located directly above the protruding slot 12. With the protective screen 15 in place, the rays 24 of the sun 25 are deflected therefrom to prevent the interior of the motor vehicle 16 from overheating and the dashboard and seats are protected there in from the harmful rays of the sun. Retraction of the protective film 15 is accomplished by peeling the film 15 off the windshield 17 and letting the film 15 retract into the cylindrical housing 10.

In the rejection of claims 30, 38 and 45, the examiner (final rejection, p. 3) concluded that it would have been obvious to one of ordinary skill in the art to

incorporate Park's teaching of an anchor assembly into the sunshade of Lii for its explicit purpose of mounting the sunshade. As to the specific dimension of the gripping member, the examiner stated "inasmuch as there is nothing to indicate that the recited range is significant or anything more than one of numerous dimensions one having ordinary skill in the art would have found obvious for the purpose of facilitating the operation of the shade, no patentable weight has been attributed thereto."

The appellants argue (brief, pp. 14-15) that it would not have been obvious to one of ordinary skill in the art to have combined the teachings of Lii and Park so as to arrive at the subject matter of either claim 30, 38 or 45. We agree. In our view, even if Lii's film 12 were provided with Park's anchor assembly 5 to secure the film 12 in its extended position such would not arrive at the subject matter of either claim 30, 38 or 45. In that regard, Park's anchor assembly 5 would not provide either (1) a gripping member being shaped so as to provide a lever of sufficient length to permit a consumer to conveniently disengage the suction cup(s) from a vehicle window, the length being within a range of about 0.4 in. to about 2.5 in. as recited in claims 30 and 45; and (2) a gripping member and second mounting means as set forth in claim 38 (i.e., the gripping member and the second mounting means being "constructed and arranged so as to facilitate disengagement of said second mounting means from the second portion of the

vehicle window when the second portion of the vehicle window is attempted to be lowered into the vehicle door").¹


For the reasons set forth above, the decision of the examiner to reject claims 30, 38 and 45, and claims 33 to 37, 39 and 40 dependent thereon, under 35 U.S.C. § 103 is reversed.

¹ We note that the examiner has not established either (1) that Park's structure is capable of providing the recited function, or (2) that Park's structure is equivalent to the disclosed structure that performs the claimed function. In fact, the examiner has not performed any of the necessary "means-plus-function" analysis. In order to meet a "means-plus-function" limitation, the prior art must (1) perform the identical function recited in the means limitation and (2) perform that function using the structure disclosed in the specification or an equivalent structure. Cf. Carroll Touch Inc. v. Electro Mechanical Sys. Inc., 15 F.3d 1573, 1578, 27 USPQ2d 1836, 1840 (Fed. Cir. 1994); Valmont Indus. Inc. v. Reinke Mfg. Co., 983 F.2d 1039, 1042, 25 USPQ2d 1451, 1454 (Fed. Cir. 1993); Johnston v. IVAC Corp., 885 F.2d 1574, 1580, 12 USPQ2d 1382, 1386 (Fed. Cir. 1989).

To summarize, the decision of the examiner to reject claims 1, 2, 9 to 18, 27, 41, 43 and 44 under 35 U.S.C. § 102(b) is reversed and the decision of the examiner to reject claims 3 to 8, 19 to 26, 30, 33 to 40 and 45 under 35 U.S.C. § 103 is reversed.


JEFFREY V. NASE

MURRIEL E. CRAWFORD
Administrative Patent Judge


JENNIFER D. BAHR
Administrative Patent Judge

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